

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

| | | |
|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| v. |) | Case Number: 4:18CR00012 |
| |) | |
| JALEN CORMARRIUS TERRY, |) | |
| |) | |
| Defendant. |) | |

DEFENDANT JALEN TERRY’S MOTION FOR ROVIARO HEARING

Now comes Defendant Jalen Cormarrius Terry (“Terry”), by his appointed counsel, and moves the Court to afford him a hearing pursuant to Roviaro v. United States, 353 U.S. 53 (1957) and the Fifth and Sixth Amendments to the Constitution. This request for hearing rests on the grounds that follow.

1. A grand jury indicted Terry on June 11, 2018 (ECF 5). In the Indictment Terry is charged, inter alia, with taking part in two attempted murders. If convicted on all counts against him, Terry shall never leave federal prison.

2. At Terry’s detention hearing on June 25, 2018, the government’s case agent testified that its prosecution of Terry was based largely on reports of an alleged participant or eyewitness (“the Unidentified Witness”) to the two attempted murders charged in the Indictment. (See June 25, 2018, Hearing Transcript, ECF 151, pp. 19-25.)

3. In the wake of the detention hearing, prosecutors rejected oral and written requests by Terry’s counsel that they disclose the identity, whereabouts and relevant information about the Unidentified Witness.

4. On July 27, 2018, Terry filed a Motion for Disclosure of Confidential Informant (ECF 129) (“Motion for Disclosure”).

5. On August 15, 2018, the government file a memorandum in opposition to Terry’s Motion for Disclosure (ECF 153). In their memorandum, prosecutors called the Motion for Disclosure “unnecessary and premature.” (Govt. Memo., p. 5, ECF 153.)

6. On August 17, 2018, two days after the government filed its memorandum, Terry replied by renewing his request that the Court compel disclosure of the Unidentified Witness (ECF 156).

7. On or about August 31, 2018, prosecutors distributed their third round of discovery documents. While this third production of discoverable material contains reports related to Terry, the government continues to refuse to disclose the Unidentified Witness’s name, whereabouts and criminal history (if any), even though Terry was indicted three months ago based on the Unidentified Witness’s statements.

Because the government’s ongoing refusal to disclose the Unidentified Witness violates the Fifth and Sixth Amendments and interferes with defense counsel’s ability to provide effective representation, Terry respectfully requests that the Court schedule a Roviaro hearing on his Motion for Disclosure.

JALEN CORMARRIUS TERRY

By: /s/Paul G. Beers
Of Counsel

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Certificate of Service

I hereby certify that on September 6, 2018, I electronically filed the foregoing Defendant Jalen Terry's Motion for Roviaro Hearing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/Paul G. Beers
Paul G. Beers